



**RE: Copy of NWP20**  
**Burgan, Michael A NWW** to: Earl Liverman

02/03/2012 01:47 PM

History: This message has been replied to and forwarded.

1 attachment



**NATIONWIDE PERMIT 38.pdf**

Earl,

Thanks for the description and maps. NWP20 would work if the project falls under the National Oil & Hazardous Substances Pollution Contingency Plan, and the rest of the requirements specified in NWP20 are met. But after reviewing the information you provided, NWP38 might be more applicable (copy attached). In fact, there is a note at the end of NWP38 that CERCLA projects approved by the EPA do not need to obtain permits under Section 404 or Section 10 of the Rivers and Harbors Act. I used it for a project in Wyoming where EPA/DEQ ordered clean up on a non-CERCLA site. As for your second question, NWP20 does not have a pre-construction notification requirement (submittal of an application is not required). Nor is one required under NWP38 if this is a CERCLA clean up. If it is done outside of CERCLA, a PCN will be required. The only thing that makes the need for a PCN a big deal is the fact that the St. Joe is critical habitat for bull trout. So if we do end up verifying the project is authorized under either permit, we will have to consult with the USF&WS under the ESA. But that is very doable. I'm sure you guy are consulting with them on your end anyway. Hopefully, if we had to consult, we'd be able to tag along on your consultation.

If you have any other questions, give me a call.

Mike Burgan  
Environmental Resources Specialist  
Coeur d'Alene Regulatory Office  
(208) 765-8139

-----Original Message-----

From: Liverman.Earl@epamail.epa.gov [mailto:Liverman.Earl@epamail.epa.gov]  
Sent: Monday, January 30, 2012 4:05 PM  
To: Burgan, Michael A NWW  
Subject: Re: Copy of NWP20

Thank you. The site that I'm involved with is referred to as the Avery Landing Site which is located adjacent to the St. Joe River downstream from Avery, ID. The site is a CERCLA/CWA site that will be addressed this summer as an EPA-lead activity. I'm interested in the NWP20 because we will likely have to remove and reconstruct an estimated 200 to 300 foot segment of the St Joe River where oil and other hazardous substances have breached a liner and are discharging to the St. Joe River. Its my understanding that all I have to do regarding coordination with the USACE is to make sure we work within the context of the Northwest Area Contingency Plan. Does this sound correct to you? Again, thanks.

Attached are a few figures which you may find helpful. Figure 1-2 shows the site location, Figure 2-3 shows the current site ownership (Federal Highway Administration, Potlatch, and Bencik), Figure 2-5 shows the historical railroad features, and Figures 4-1 and 4-2 shows the site features.

(See attached file: Figure 1-2 Site Vicinity Map.pdf) (See attached file: FIG 2-3.pdf) (See attached file: Fig 2-5.pdf) (See attached file: Fig 4-1.pdf) (See attached file: Fig 4-2.pdf) (Embedded image moved to file: pic20671.jpg)

From: "Burgan, Michael A NWW" <Michael.A.Burgan@usace.army.mil>  
To: Earl Liverman/R10/USEPA/US@EPA  
Date: 01/30/2012 03:54 PM  
Subject: Copy of NWP20

Good afternoon Earl,

Here is a copy of the current NWP20. Be advised it, and all current NWPs, expire on March 18, 2012. We used to have a public notice on our website where you could review the proposed NWPs, but that has apparently been removed. The new finalized NWPs will hopefully be published in the federal register before or near February 18, 2012. They should become , effective 30-days after their final publication in the federal register.

However, if an individual or party submits a pre-construction notification (PCN - aka permit application), and we can verify their project is authorized under one of the existing NWP's prior to March 18, 2012, they will have until March 18, 2013, to complete the project. If work cannot be completed by then, they will have to submit another PCN under the new NWP.

If you have any questions, give me a call.

Mike Burgan  
Environmental Resources Specialist  
Coeur d'Alene Regulatory Office  
(208) 765-8139

[attachment "NATIONWIDE PERMIT 20.pdf" deleted by Earl Liverman/R10/USEPA/US]